

Nevertheless, applicants have attempted to comply with the Examiner's requirement for restriction herewith.

The Examiner has indicated that claims 1-12 [sic] are subject to restriction and/or election for the following reasons, in relevant part:

Group I: wherein M = phenyl;
Group II: wherein M = pyridyl;
Group III: wherein M = thienyl;
Group IV: wherein M = furyl;
Group V: any compounds wherein M does not fall within Groups I-IV;
Group VI: claims 6-12, drawn to multiple uses.

Applicants are also required to elect a single compound if any of Groups I-V is elected.

PROVISIONAL ELECTION

Applicants provisionally elect Group I, drawn to wherein M = phenyl.

In response to the Examiner's requirement for applicants to elect a single disclosed species, applicants provisionally elect the compound of Example 1.

In response to the Examiner's request for applicants to elect one method of use (i.e., a specific disease), applicants provisionally elect airway disorders (as claimed in claim 10).

TRAVERSAL

Applicant respectfully traverses the Examiner's restriction / election requirement.

First, the restriction / election requirement is traversed because it omits "an appropriate explanation" as to the existence of a "serious burden" if a restriction were not required. See MPEP 803. A complete and thorough search for the subject matter set forth in the provisionally elected species set forth above would require searching the art areas appropriate to all other subject matter contained in this application. Since a search of the subject matter of the provisionally elected species and all other subject matter contained in this application would be coextensive, it would not be a serious burden upon the Examiner to conduct a search of all subject matter contained in this application.

Furthermore, applicants have paid a filing fee for an examination of all the claims in this application. If the Examiner refuses to examine the claims paid for when filing this application and persists in requiring applicants to file divisional applications for each of the groups of claims, the Examiner would essentially be forcing applicants to pay duplicative fees for the non-elected or withdrawn claims, inasmuch as the original filing fees for the claims (which would

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be later prosecuted in divisional applications) are not refundable.

CONCLUSION

In view of the foregoing, applicants respectfully request the Examiner to reconsider and withdraw the restriction / election requirement, and to examine all of the claims pending in this application.

If the Examiner has any questions or wishes to discuss this matter, the Examiner is welcomed to telephone the undersigned attorney.

Respectfully submitted,

THE NATH LAW GROUP

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THE NATH LAW GROUP

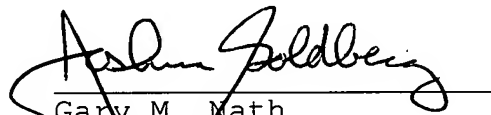
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